

# STATE OF MONTANA TERM CONTRACT

Department Of Administration  
State Procurement Bureau  
165 Mitchell Building  
PO Box 200135  
Helena MT 59620-0135

Phone: (406) 444-2575 Fax: (406) 444-2529

## T.C. # SPB-01-15P TEMPORARY SERVICES

This is an exclusive contract.

CONTRACT PERIOD	FROM	November 1, 2003	CONTRACT YEAR	NEW ( )
	TO	October 31, 2004		RENEW (XX) 2 <sup>ND</sup> RENEWAL, 4 <sup>TH</sup> YEAR
VENDOR ADDRESS	See Attached		ORDER ADDRESS	See Attached
ATTN:			ATTN:	
PHONE:			PHONE:	
FAX:			FAX:	

PRICES: See Attached

TERMS: Net 30

### REMARKS:

The University system has been granted optional use of this contract.

IFB/RFP No.:	PENNY MOON, Contracts Officer
SPB-01-15P	

**AUTHORIZED SIGNATURE/DATE**

REVISED 08/00

## Standard Terms and Conditions

**By submitting a bid or proposal, or acceptance of a contract, the vendor agrees to the following binding provisions:**

---

**AUTHORITY:** The following bid/request for proposal or contract is issued in accordance with Title 18, Montana Code Annotated and the Administrative Rules of Montana, Title 2, Chapter 5.

**CERTIFICATE OF AUTHORITY TO TRANSACT BUSINESS:** Any business entity, domestic or foreign, intending to transact business in Montana must apply for authority to do so with the Montana Secretary of State. Foreign business entities are obligated to determine whether they are transacting business in Montana, in accordance with §§ 35-1-1026 and 35-8-1001, MCA, and if so, must apply for and receive a certificate of authority and continue to be in good standing with the Secretary of State for the duration of this contract. Violation of these requirements may void this contract. Proof of authority is required. Questions or registration may be accomplished by contacting the Secretary of State at (406) 444-3665 or by e-mail at [sos@state.mt.us](mailto:sos@state.mt.us).

**SHIPPING:** Supplies shall be shipped prepaid, F.O.B. Destination, unless the contract specifies otherwise.

**TAX EXEMPTION:** The State of Montana is exempt from Federal Excise Taxes (#81-0302402).

**VENUE:** This solicitation is governed by the laws of Montana. The parties agree that any litigation concerning this bid, request for proposal, or subsequent contract, must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees. (Ref:18-1-401, MCA)

**NON-DISCRIMINATION:** The State of Montana does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals, who need aids, alternative document formats, or services for effective communications or other disability-related accommodations in the programs and services offered, are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

**COMPLIANCE WITH LAWS:** The contractor must, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the contractor subjects subcontractors to the same provision. In accordance with Section 49-3-207, MCA, the contractor agrees that the hiring of persons to perform this contract will be made on the basis of merit and qualifications and there will be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing this contract.

**HOLD HARMLESS/INDEMNIFICATION:** The bidder, offeror, or contractor agrees to indemnify the state, its officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, and causes of action of any kind or character, including the cost of defense, arising in favor of the contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed, goods or rights to intellectual property provided or omissions of services or in any way resulting from the acts or omission of the contractor and/or its agents, employees, subcontractors or its representatives under a subsequent contract, all to the extent of the contractor's negligence.

**ACCESS AND RETENTION OF RECORDS:** The contractor agrees to provide the department, Legislative Auditor, or their authorized agents, access to any records necessary to determine contract compliance. (Ref: 18-1-118, MCA) The contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of three years after either the completion date of the contract or the conclusion of any claim, litigation, or exception relating to the contract taken by the State of Montana or third party.

**INTELLECTUAL PROPERTY:** All patents and other legal rights in or to inventions arising out of activities funded in

whole or in part by this contract must be available to the State for royalty-free and nonexclusive licensing. The contractor shall notify the State in writing of any invention conceived or reduced to practice in the course of performance of this contract. The State shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use and authorize others to use, copyrightable property created under this contract.

**UNAVAILABILITY OF FUNDING:** The contracting agency, at its sole discretion, may terminate or reduce the scope of this contract if available funding is reduced for any reason. (Ref: Section 18-4-313 (3), MCA)

**FACSIMILE RESPONSES:** Facsimile responses will be accepted for Invitation for Bids ONLY if they are completely received by the State Procurement Bureau prior to the time set for receipt of bids. Bids, or portions thereof, received after the due time will not be considered. Facsimile responses to Requests for Proposals are ONLY accepted on an exception basis with prior approval of the procurement officer.

**WARRANTIES:** The contractor warrants that items offered will conform to the specifications requested, to be fit and sufficient for the purpose manufactured, of good material and workmanship and free from defect. Items offered must be new and unused and of the latest model or manufacture, unless otherwise specified by the State. They shall be equal in quality and performance to those indicated herein. Descriptions used herein are specified solely for the purpose of indicating standards of quality, performance and/or use desired. Exceptions will be rejected.

**ACCEPTANCE/REJECTION OF BIDS OR PROPOSALS:** The State reserves the right to accept or reject any or all bids or proposals, wholly or in part, and to make awards in any manner deemed in the best interest of the State. Bids and proposals will be firm for thirty days, unless stated otherwise.

**PROTEST PROCEDURE:** Bidders and offerors may protest a solicitation or award of a contract per Section 18-4-242, MCA and ARM 2.5.406. The protest must be in writing and state in detail all of the protestor's objections. The complete protest must be submitted to the department no later than the close of business 14 calendar days after the execution of the contract in question. If the 14th day falls on a Saturday, Sunday or legal holiday, the protest is due at the end of the next business day. The State is under no obligation to delay, halt, or modify the procurement process pending the result of a protest, contested case proceeding, or judicial review.

**MONTANA PREFERENCES:** Public agencies are required by law to apply a 3-5% preference to bids submitted by Montana residents for the purchase of goods. (Preferences are not applied to Requests for Proposals, Term Contract Bids, for "services", or if federal funds are involved.) Bidders claiming this preference must have a current affidavit on file with the department, or submit one at the time of bid, in order to qualify for the preference. For complete information and affidavit forms, see [www.state.mt.us/doa/ppd/resaffid.pdf](http://www.state.mt.us/doa/ppd/resaffid.pdf) (Ref: Section 18-1-102, 18-1-103, 18-1-113, MCA and ARM 2.5.403) In addition, Montana-made products are preferred for use in a contract if such goods are comparable in price and quality. (Ref: 18-1-112, MCA)

**FAILURE TO HONOR BID/PROPOSAL:** If a bidder/offeror to whom a contract is awarded refuses to accept the award (PO/contract) or, fails to deliver in accordance with the contract terms and conditions, the department may, in its discretion, suspend the bidder/offeror for a period of time from entering into any contracts with the State of Montana.

**CONFORMANCE WITH CONTRACT:** No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of this contract shall be granted without prior written consent of the State Procurement Bureau. Supplies delivered which do not conform to the contract terms, conditions, and specifications may be rejected and returned at the contractor's expense.

**REFERENCE TO CONTRACT:** The contract (Purchase Order) number MUST appear on all invoices, packing lists, packages and correspondence pertaining to the contract.

**PAYMENT TERM:** All payment terms will be computed from the date of delivery of supplies or services OR receipt of a properly executed invoice, whichever is later. Unless otherwise noted, the State is allowed 30 days to pay such invoices.

**TERMINATION OF CONTRACT:** Unless otherwise stated, the State may, by written notice to the contractor, terminate this contract in whole or in part at any time the contractor fails to perform this contract.

**ASSIGNMENT, TRANSFER AND SUBCONTRACTING:** The contractor shall not assign, transfer or subcontract any portion of this contract without the express written consent of the department. (See 18-4-141, MCA)

**SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.

**DEBARMENT:** The contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the contractor cannot certify this statement, attach a written explanation for review by the state.

**LATE BIDS AND PROPOSALS:** Regardless of cause, late bids and proposals will not be accepted and will automatically be disqualified from further consideration. It shall be the vendor's sole risk to assure delivery at the designated office by the designated time. Late bids and proposals will not be opened and may be returned to the vendor at the expense of the vendor or destroyed if requested.

**SOLICITATION DOCUMENT EXAMINATION:** Vendors shall promptly notify the State of any ambiguity, inconsistency, or error, which they may discover upon examination of a solicitation document.

REVISED 04/00

## INTRODUCTION

Various state agencies utilize the services of private companies to provide temporary workers as needed. These individuals provide a variety of clerical, data entry, and word processing services on a temporary basis. The need for additional temporary clerical resources has become apparent as the State's workload continues to grow. Contracted services help to meet program responsibilities at all levels of State government. Therefore, it is necessary to contract with private industry to achieve our goals.

Temporary service contracts are needed to perform services in eight cities around the State. Those cities are: Billings, Butte, Bozeman, Great Falls, Helena, Kalispell, Miles City and Missoula.

Temporary workers shall be provided to the requesting agency/department for a **maximum of three months or 480 hours**, as required. (State agencies should utilize the modified FTE process for temporary employment requiring longer terms.)

The State is actively involved in welfare reform and encourages the contractor to hire participants in the FAIM (Families Achieving Independence in Montana) program. For more information on the FAIM program contact Lisa Brittingham at (406) 444-9478.

### 1.0 CONTRACT TERM

The initial contract(s) term is for a period of two years beginning November 1, 2000 and ending October 31, 2002. Renewals of the contract may be made at one-year intervals, not to exceed a total of five years, at the option of the State. Price increases may be negotiated prior to the beginning of renewal periods if agreed to by both the parties. Any price adjustments shall be based upon documented increases in the contractor's cost of the contract, and shall remain in effect for the entire renewal period.

### 2.0 CONTRACT HOLDERS

#### A. Contract #SPB-01-15P-A (Attached)

James A Nys  
Westaff USA  
910 E Lyndale, Suite A  
Helena MT 59601  
Phone No.: (406) 443-7169  
Fax No.: (406) 443-5803  
pplusmt@personnel-plus.com

Contractor agrees to provide to the State temporary workers on an as needed basis in the following communities: Helena.

## Temporary Services

Contractor's office is open from 8:00 a.m. to 5:00 p.m. Monday through Friday with additional hours as necessary to meet the client's needs. Office staff can be reached by telephone (406) 443-7169; by cell phone 439-1394 or 439-6792; by e-mail [pplusmt@personnel-plus.com](mailto:pplusmt@personnel-plus.com) or [Telder@westaff.com](mailto:Telder@westaff.com); or by fax at 443-5803.

**B. Contract #SPB-01-15P-B (Attached)**

Lynne Johnson  
Express Personnel Services  
1100 W Custer  
Helena MT 59602  
Phone No.: (406) 442-7501  
Fax No.: (406) 442-2707  
[LMJohnson@helenamt.expresspersonnel.com](mailto:LMJohnson@helenamt.expresspersonnel.com)

Contractor agrees to provide to the State temporary workers on an as needed basis in the following communities: Billings, Butte, Bozeman, Great Falls, Helena, Kalispell and Missoula. Billings has an annex office, which services Miles City and surrounding area.

## Location Coordinators:

<u>Office Location</u>	<u>Contact Person</u>	<u>Phone #</u>	<u>Fax #</u>	<u>Office Hours</u>
Billings	Mary Beth Brazill e-mail: <a href="mailto:DDMitchell@billingsmt.expresspersonnel.com">DDMitchell@billingsmt.expresspersonnel.com</a>	252-5050	252-0038	8-5 M-F
Bozeman	Greg Donaldson e-mail: <a href="mailto:exprboz@aol.com">exprboz@aol.com</a>	587-0388	587-0534	8-5 M-F
Butte	Vicki Manning e-mail: <a href="mailto:JHManning@buttemt.expresspersonnel.com">JHManning@buttemt.expresspersonnel.com</a>	723-6531	782-5234	8-5 M-F
Great Falls	Sandy & Donald Stafford e-mail: <a href="mailto:expper@initco.net">expper@initco.net</a>	761-3027	761-7839	8-5 M-F
Helena	Lynne Johnson e-mail: <a href="mailto:LMJohnson@helenamt.expresspersonnel.com">LMJohnson@helenamt.expresspersonnel.com</a>	442-7501	442-2707	7:30-5 M-F
Kalispell	Cheri Nelson e-mail: <a href="mailto:Jobs@kalispellmt.expresspersonnel.com">Jobs@kalispellmt.expresspersonnel.com</a>	257-2255	257-5042	7-5 M-F; Sat. 9-1
Missoula	Jay Olson e-mail: <a href="mailto:JBGale@missoulamt.expresspersonnel.com">JBGale@missoulamt.expresspersonnel.com</a>	543-6651	543-7288	

In the event any of Express' employees' job duties involve access to valuable property of any type or nature, including but not limited to cash, securities, credit charges, account numbers, etc., then Express' Cash Handling Agreement must be signed by the customer before any such services are rendered. (**Attachment A**)

In the event any of Contractor's employees are to drive any vehicles or drive any motorized equipment, Contractor's Vehicle/Motorized Mobile Equipment Indemnity Agreement will have to be executed by the State of Montana prior to said employees being allowed access to said vehicles or motorized equipment. (**Attachment B**)

### **3.0 OBJECTIVES OF THE PROJECT**

The provision of private clerical services should enable state agencies to concentrate on other areas of concern, such as general program implementation, and enable them to maintain operation standards. The general requirements applicable to the contractor are as follows:

- 3.1 The contractor must be a temporary service contractor as defined in 39-71-116(33) MCA.
- 3.2 The temporary worker shall be an employee of the contractor, not an employee of the State of Montana. (Ref. 39-71-116(35), MCA)
- 3.3 The contractor shall provide workers who possess the skills and abilities necessary to successfully complete the duties assigned by the State.
- 3.4 The contractor shall retain the responsibility for payroll and accounting for all required withholding for the temporary worker(s), including, but not limited to:
  - federal, state and social security taxes;
  - federal and state unemployment insurance;
  - worker's compensation;
  - all monthly, quarterly, and annual government and insurance reports;
  - calculate, print, and distribute employee's W-2 forms; and
  - mandatory child support deductions.
- 3.5 Upon submission of the contractor's requested verification of hours worked by the temporary workers, the contractor shall invoice the designated agency at regular intervals for payment of contracted services rendered. The contractor will only be reimbursed for actual hours worked by their employee.
- 3.6 The State retains the right to refuse any unsatisfactory worker and the contractor shall guarantee a satisfactory replacement at no charge to the State. The contractor must provide a replacement worker within one working day of notification.

---

Temporary Services

---

- 3.7 The State shall have the right to immediately release a temporary worker unable to satisfactorily perform assigned duties or whose behavior is unacceptable, rude, harassing or threatening at any time. The contractor shall replace that worker for the duration of the contract. In the event a worker is removed prior to completion of the scheduled work shift, the contractor will be reimbursed for actual hours of satisfactory work performance. No charge for removal/replacement will be paid.
- 3.8 The contractor shall be informed of the rules and policies of the State agencies and provide workers who are familiar with and can comply with them. The State may require the contractor to have a background investigation initiated or completed prior to placement of temporary worker(s). This investigation should include but is not limited to:
- Fingerprint I.D. Check
  - Active past employer reference check.
  - Past residence history.

Files shall be maintained regarding these investigations. The State may conduct inspections of these background investigations to ensure compliance and appropriateness of hire.

- 3.9 The temporary worker may be required to work up to eight hours each day. On rare occasions, the worker may be required to work weekends or a holiday. This may be negotiated with the successful contractor.
- 3.10 The contractor shall inform the worker that the State will not reimburse the worker for parking expenses.
- 3.11 The contractor shall encourage employment opportunities for qualified FAIM (Families Achieving Independence in Montana) program participants.
- 3.12 Temporary workers will be assigned various tasks with the majority of work to be general clerical duties. The three specific types of workers that may be required are - limited experience clerical, experienced clerical and advanced software specialist.
- 3.13 Temporary workers shall be provided to the requesting agency/department for a maximum of three months or 480 hours, as required. (State agencies should utilize the modified FTE process for temporary employment requiring longer terms.)
- 3.14 The contractor must have a fully functional office open during regular business days, minimum of Monday through Friday, 8 a.m. to 5 p.m., to provide the support necessary for performance of the services required.



#### 4.0 AGENCY RESPONSIBILITIES

- 4.1 Each agency may designate liaison(s) in each area to be responsible for the request and authorization of temporary services. The liaison will attempt to provide 24 hours notice prior to requiring services. However, on occasion the State may require immediate placement. If immediate placement is not available, the State reserves the right to procure services from another temporary service contractor.
- 4.2 The individual agencies will supply temporary workers with a data entry terminal, office equipment, supplies, and other similar and related items necessary to perform the assigned tasks.

#### 5.0 POSITION DESCRIPTIONS AND PRICES

- 5.1 **Limited Experience Clerical \*** – An individual with less than twelve months of experience who will perform copying, filing, receptionist duties and be required to do minimal typing and has some office experience.

WESTAFF USA  
Helena Area  
**\$8.38**

EXPRESS PERSONNEL SERVICES \*\*  
Statewide (Including Helena)  
**\$8.68**

- 5.2 **Experienced Clerical \*** – An individual with one to two years of experience who has worked with modern copiers, telephone systems, has some experience with word processing software programs such as Word and WordPerfect and some experience with spreadsheet software programs such as Excel and Lotus 1-2-3. This individual will perform data entry, some word processing and general clerical/receptionist duties, bookkeeping duties, and has at least one year of office experience. Data entry will include enter and transfer of data from existing databases, medical records, shipment invoices, quarterly reports, demographic reports, etc. It is **mandatory** that data entry made for confidential files **remain confidential**.

WESTAFF USA  
Helena Area  
**\$9.08**

EXPRESS PERSONNEL SERVICES \*\*  
Statewide (Including Helena)  
**\$10.12**

- 5.3 **Advanced Software Specialist \*** – An individual possessing the skills listed above with a minimum of two years of computer experience. Extensive knowledge in word processing software programs such as Word and WordPerfect and spreadsheet software programs such as Excel and Lotus 1-2-3 needed. Some knowledge of PeopleSoft software would be helpful.

Temporary Services

---

WESTAFF USA

Helena Area

**\$10.24**

EXPRESS PERSONNEL SERVICES \*\*

Statewide (Including Helena)

**\$11.88**

- 5.4 Hourly or per job rates for any other specialty positions or positions not identified within this contract may be negotiated between the agencies and the successful contractor(s). Also, the State agencies may negotiate hourly or per job rates for temporary workers needed in other locations not identified within this contract. If unable to agree on an hourly rate to be charged for these positions, the State may procure the services elsewhere.

**\* NOTE:** Anytime the work assigned is different than explicitly defined the rates charged may differ from those quoted above. In particular, if a temporary worker is to drive a vehicle or operate motorized equipment (i.e. forklift), the agency must tell the contractor that the job assignment will require driving when requesting the worker, as it may require different Workers' Compensation classification and may increase the cost. The agency may also want to require the contractor to provide a background check of the driver's record prior to placement.

**\*\* NOTE:** Reference Attachments A & B for special terms.

**TEMPORARY SERVICES  
SPB-01-15P-A****October 27, 2000****1. PARTIES**

THIS CONTRACT, is entered into by and between the State of Montana Department of Administration State Procurement Bureau, (hereinafter referred to as "State") whose address and phone number are 165 Mitchell Building, 125 N Roberts, PO Box 200135, Helena MT 59620-0135, (406) 444-2575 and Westaff USA, (hereinafter referred to as the "Contractor"), whose nine (9) digit Federal ID Number, address and phone number are 68-0095781, 910 E Lyndale Suite A Helena MT 59601, and (406) 443-7169.

**THE PARTIES AGREE AS FOLLOWS:****2. EFFECTIVE DATE, DURATION AND RENEWAL**

(a) This contract **SPB-01-15P-A** shall take effect on November 1, 2000. The Contract shall terminate on October 31, 2004, unless terminated earlier in accordance with the terms of this Contract.

(b) This contract and its identical terms may be renewed by the State for one additional period of one-year duration, not to exceed five years total.

**3. SERVICES TO BE PROVIDED**

Contractor agrees to provide to the State temporary workers on an as needed basis in the following communities: Helena.

Request for Proposal #SPB-01-15P and the terms and conditions attached to it, the contractor's response, clarifications, and all formal addenda to the RFP are included as part of this contract by reference.

Contractor's office is open from 8:00 a.m. to 5:00 p.m. Monday through Friday with additional hours as necessary to meet the client's needs. Office staff can be reached by telephone (406) 443-7169; by cell phone 439-1394 or 439-6792; by e-mail pplusmt@personnel-plus.com or Telder@westaff.com; or by fax at 443-5803.

**4. CONSIDERATION/PAYMENT**

(a) In consideration for the services to be provided, State agencies shall pay within 30 days of receipt of a complete and accurate invoice. The State will only pay for actual hours worked.

(b) The State reserves the right to assess liquidated damages in the amount of \$50.00 per calendar day for failure to comply with the conditions of award. This sum may be deducted from the contractor's payment for failure to perform as specified. No premium will be awarded to the contractor for performance in excess of the specifications. The amount of actual damages may be offset by liquidated damages taken.

(c) **Limited Experience Clerical** – An individual with less than twelve months of experience who will perform copying, filing, receptionist duties and be required to do minimal typing and has some office experience. Cost per hour is **\$8.38**.

(d) **Experienced Clerical** – An individual with one to two years of experience who has worked with modern copiers, telephone systems, has some experience with word processing software programs such as Word and WordPerfect and some experience with spreadsheet software programs such as Excel and Lotus 1-2-3. This individual will perform data entry, some word processing and general clerical/receptionist duties, bookkeeping duties, and has at least one year of office experience. Data entry will include enter and transfer of data from existing databases, medical records, shipment invoices, quarterly reports, demographic reports, etc. It is **mandatory** that data entry made for confidential files **remain confidential**. Cost per hour is **\$9.08**.

(e) **Advanced Software Specialist** – An individual possessing the skills listed above with a minimum of two years of computer experience. Extensive knowledge in word processing software programs such as Word and WordPerfect and spreadsheet software programs such as Excel and Lotus 1-2-3 needed. Some knowledge of PeopleSoft software would be helpful. Cost per hour is **\$10.24**.

(f) Hourly or per job rates for any other specialty positions or positions not identified within this contract may be negotiated between the agencies and the contractor(s). Also, the State agencies may negotiate hourly or per job rates for temporary workers needed in other locations not identified within this contract. If unable to agree on an hourly rate to be charged for these positions, the State may procure the services elsewhere.

## **5. EXCLUSIVE CONTRACT**

The intent of this contract is to provide state agencies with an expedited means of procuring supplies and/or services. This contract is considered to be an "Exclusive" use contract and State agencies must obtain the specified product/service from the contract holder(s), unless the contract allows otherwise. However, the State Procurement Bureau does not guarantee any minimum usage totals and it is the individual agency's responsibility to comply with the terms of the contract.

## **6. PROCUREMENT CARD**

The State of Montana has implemented a Procurement Card (GE MasterCard) Program to give agencies the ability to charge purchases made from these contracts. The State of Montana prefers this method of payment.

**7. TERM CONTRACT REPORTING**

Term contract holder(s) shall furnish quarterly reports of term contract usage. Each report shall contain the name of each worker, position assigned, start and end dates for each assignment, total quantity of hours per assignment, total dollars expended, the State agency/department and the name of the agency contact person. These reports must be available upon request by any agency/department. The first report for this term contract will be due February 28, 2001.

Reported volumes and dollar totals may be checked by the State Procurement Bureau against State records for verification. Failure to provide timely or accurate reports is justification for cancellation of the contract and/or justification for debarment from conducting any business with the State of Montana.

**8. ACCESS AND RETENTION OF RECORDS**

(a) The contractor agrees to provide the State, Legislative Auditor or their authorized agents access to any records necessary to determine contract compliance.

(b) The contractor agrees to create and retain records supporting the services rendered (or supplies delivered) for a period of three years after either the completion date of this contract or the conclusion of any claim, litigation or exception relating to this contract taken by the State of Montana or a third party.

**9. ASSIGNMENT, TRANSFER AND SUBCONTRACTING**

The contractor shall not assign, transfer or subcontract any portion of this contract without the express written consent of the State Procurement Bureau. (See 18-4-141, MCA).

**10. HOLD HARMLESS/INDEMNIFICATION**

The contractor agrees to indemnify the state, its officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, and causes of action of any kind or character, including the cost of defense, arising in favor of the contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed, goods or rights to intellectual property provided or omissions of services or in any way resulting from the acts or omission of the contractor and/or its agents, employees, subcontractors or its representatives under this or a subsequent contract, all to the extent of the contractors negligence.

**11. INSURANCE**

(a) **General Requirements:** The contractor shall maintain for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability which may arise from or in connection with the negligent performance of the work by the contractor, agents, employees, assigns, or subcontractors. The insurance shall cover such claims as may be caused by any negligent act or omission of the contractor or its officers, agents, representatives, assigns or subcontractors.

(b) **Specific Requirements for Commercial General Liability:** The contractor shall purchase and maintain Occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any negligent act, omission, or negligence of the contractor or its officers, agents, representatives, assigns or subcontractors.

(c) **Additional Insured Status:** The State, its officers, officials, employees, and volunteers are to be covered as additional insureds except for the negligence or willful misconduct of the State; for liability arising out of activities performed negligently by or on behalf of the contractor.

(d) **Specific Requirements for Automobile Liability:** The contractor shall purchase and maintain Occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the contractor or its officers, agents, representatives, assigns or subcontractors.

(e) **Additional Insured Status:** The State, its officers, officials, employees, and volunteers are to be covered as additional insureds for automobiles leased, hired, or borrowed by the contractor.

(f) **Deductibles and Self-Insured Retentions:** Any deductible or self-insured retention must be declared to and approved by the state agency. At the request of the agency either: 1) The insured shall reduce or eliminate such deductibles or self-insured retentions as respect to the State, its officers, officials, employees, and volunteers, or; 2) The contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

(g) **Certificate of Insurance/Endorsements:** A certificate of insurance, indicating compliance with the required coverages, has been received by the State Procurement Bureau. The Contractor must notify the State immediately, of any material change in insurance coverage, such as changes in limits, coverage, change in status of policy, etc.

(h) **Primary Insurance:** The contractor's insurance coverage shall be primary insurance as respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be in excess of the contractor's insurance and shall not contribute with it.

**12. WORKERS COMPENSATION/INDEPENDENT CONTRACTOR'S EXEMPTION**

Contractors are required to maintain Workers' Compensation or an Independent Contractor's Exemption covering the contractor and/or employees while performing work for the State of Montana in accordance with 39-71-120/401/405, Montana Code Annotated. Neither the contractor nor its employees are employees of the State. This insurance/exemption must be valid for the entire contract period.

**13. INTELLECTUAL PROPERTY**

(a) All patents and other legal rights in or to inventions arising out of activities funded in whole or in part by this contract must be available to the State for royalty-free and nonexclusive licensing. The contractor shall notify the State in writing of any invention conceived or reduced to practice in the course of performance of this contract.

(b) The State shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use and authorize others to use, copyrightable property created under this contract.

**14. COMPLIANCE WITH LAWS**

The contractor must, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the contractor subjects subcontractors to the same provision. In accordance with Section 49-3-207, MCA, the contractor agrees that the hiring of persons to perform this contract will be made on the basis of merit and qualifications and there will be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing this contract.

**15. CONTRACT TERMINATION**

(a) The State may, by written notice to the contractor, terminate this contract in whole or in part at any time the contractor fails to:

- perform the services within the time limits specified in this contract;
- perform any requirement of this contract;
- perform its contractual duties or responsibilities specified in the standards of contractor performance defined in the contract; or
- comply with any law, regulation or licensure and certification requirement.

(b) The State, at its sole discretion, may terminate or reduce the scope of this contract if available funding is reduced for any reason. (See 18-4-313(3), MCA).

**16. LIAISON AND SERVICE OF NOTICES**

Written notices or complaints will first be directed to the liaison.

**Contractor Liaison:**

James A Nys  
Westaff USA  
910 E Lyndale, Suite A  
Helena MT 59601  
Phone No.: (406) 443-7169  
Fax No.: (406) 443-5803  
pplusmt@personnel-plus.com

**State Procurement Bureau Liaison:**

Penny Moon, Contracts Officer  
State Procurement Bureau  
Room 165, Mitchell Building  
125 North Roberts Street  
PO Box 200135  
Helena MT 59620-0135  
Phone No.: (406) 444-3313  
Fax No.: (406) 444-2529  
pmoon@state.mt.us

**17. CHOICE OF LAW AND VENUE**

This contract is governed by the laws of Montana. The parties agree that any litigation concerning this bid, proposal or subsequent contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana and each party shall pay its own costs and attorney fees. (See 18-1-401, MCA).

**18. SCOPE, AMENDMENT AND INTERPRETATION**

(a) This contract consists of six numbered pages, any Attachments as required, RFP # SPB-01-15P as amended and the contractor's response as amended. In the case of dispute or ambiguity about the minimum levels of performance by the Contractor the order of precedence of document interpretation is in the same order.

(b) These documents contain the entire agreement of the parties. Any enlargement, alteration or modification requires a written amendment signed by both parties.



**TEMPORARY SERVICES  
SPB-01-15P-B****October 27, 2000****1. PARTIES**

THIS CONTRACT, is entered into by and between the State of Montana Department of Administration State Procurement Bureau, (hereinafter referred to as "State") whose address and phone number are 165 Mitchell Building, 125 N Roberts, PO Box 200135, Helena MT 59620-0135, (406) 444-2575 and Express Personnel Services, (hereinafter referred to as the "Contractor"), whose nine (9) digit Federal ID Number, address and phone number are 84-0909680, 921 Euclid Helena MT 59601, and (406) 442-7501.

**THE PARTIES AGREE AS FOLLOWS:****2. EFFECTIVE DATE, DURATION AND RENEWAL**

(a) This contract **SPB-01-15P-B** shall take effect on November 1, 2000. The Contract shall terminate on October 31, 2004, unless terminated earlier in accordance with the terms of this Contract.

(b) This contract and its identical terms may be renewed by the State for one additional period of one-year duration, not to exceed five years total.

**4. SERVICES TO BE PROVIDED**

Contractor agrees to provide to the State temporary workers on an as needed basis in the following communities: Billings, Butte, Bozeman, Great Falls, Helena, Kalispell and Missoula. Billings has an annex office, which services Miles City and surrounding area, as well as a couple of locations when needed for seasonal work.

Request for Proposal #SPB-01-15P and the terms and conditions attached to it, the contractor's response, clarifications, and all formal addenda to the RFP are included as part of this contract by reference.

Location Coordinators:

<u>Office Location</u>	<u>Contact Person</u>	<u>Phone #</u>	<u>Fax #</u>	<u>Office Hours</u>
Billings	Mary Beth Brazill e-mail: <a href="mailto:DDMitchell@billingsmt.expresspersonnel.com">DDMitchell@billingsmt.expresspersonnel.com</a>	252-5050	252-0038	8-5 M-F

## Temporary Services

---

Bozeman	Greg Donaldson e-mail: <a href="mailto:exprboz@aol.com">exprboz@aol.com</a>	587-0388	587-0534	8-5 M-F
Butte	Vicki Manning e-mail: <a href="mailto:JHManning@buttemt.expresspersonnel.com">JHManning@buttemt.expresspersonnel.com</a>	723-6531	782-5234	8-5 M-F
Great Falls	Sandy & Donald Stafford e-mail: <a href="mailto:expper@initco.net">expper@initco.net</a>	761-3027	761-7839	8-5 M-F
Helena	Lynne Johnson e-mail: <a href="mailto:LMJohnson@helenamt.expresspersonnel.com">LMJohnson@helenamt.expresspersonnel.com</a>	442-7501	442-2707	7:30-5 M-F
Kalispell	Cheri Nelson e-mail: <a href="mailto:Jobs@kalispellmt.expresspersonnel.com">Jobs@kalispellmt.expresspersonnel.com</a>	257-2255	257-5042	7-5 M-F; Sat. 9-1
Missoula	Jay Olson e-mail: <a href="mailto:JBGale@missoulamt.expresspersonnel.com">JBGale@missoulamt.expresspersonnel.com</a>	543-6651	543-7288	

In the event any of Express' employees' job duties involve access to valuable property of any type or nature, including but not limited to cash, securities, credit charges, account numbers, etc., then Express' Cash Handling Agreement must be signed by the customer before any such services are rendered. (Attachment A)

In the event any of Contractor's employees are to drive any vehicles or drive any motorized equipment, Contractor's Vehicle/Motorized Mobile Equipment Indemnity Agreement will have to be executed by the State of Montana prior to said employees being allowed access to said vehicles or motorized equipment. (Attachment B)

#### **4. CONSIDERATION/PAYMENT**

(a) In consideration for the services to be provided, State agencies shall pay within 30 days of receipt of a complete and accurate invoice. The State will only pay for actual hours worked.

(b) The State reserves the right to assess liquidated damages in the amount of \$50.00 per calendar day for failure to comply with the conditions of award. This sum may be deducted from the contractor's payment for failure to perform as specified. No premium will be awarded to the contractor for performance in excess of the specifications. The amount of actual damages may be offset by liquidated damages taken.

(c) **Limited Experience Clerical** – An individual with less than twelve months of experience who will perform copying, filing, receptionist duties and be required to do minimal typing and has some office experience. Cost per hour is **\$8.68**.

(d) **Experienced Clerical** – An individual with one to two years of experience who has worked with modern copiers, telephone systems, has some experience with word processing software programs such as Word and WordPerfect and some experience with spreadsheet software programs such as Excel and Lotus 1-2-3. This individual will perform data entry, some word processing and general clerical/receptionist duties, bookkeeping duties, and has at least one year of office experience. Data entry will include enter and transfer of data from existing databases, medical records, shipment invoices, quarterly reports, demographic reports, etc. It is **mandatory** that data entry made for confidential files **remain confidential**. Cost per hour is **\$10.12**.

(e) **Advanced Software Specialist** – An individual possessing the skills listed above with a minimum of two years of computer experience. Extensive knowledge in word processing software programs such as Word and WordPerfect and spreadsheet software programs such as Excel and Lotus 1-2-3 needed. Some knowledge of PeopleSoft software would be helpful. Cost per hour is **\$11.88**.

(f) Hourly or per job rates for any other specialty positions or positions not identified within this contract may be negotiated between the agencies and the contractor(s). Also, the State agencies may negotiate hourly or per job rates for temporary workers needed in other locations not identified within this contract. If unable to agree on an hourly rate to be charged for these positions, the State may procure the services elsewhere.

## **5. EXCLUSIVE CONTRACT**

The intent of this contract is to provide state agencies with an expedited means of procuring supplies and/or services. This contract is considered to be an “Exclusive” use contract and State agencies must obtain the specified product/service from the contract holder(s), unless the contract allows otherwise. However, the State Procurement Bureau does not guarantee any minimum usage totals and it is the individual agency’s responsibility to comply with the terms of the contract.

The State reserves the right to exempt any locations from the contract if services prove to be unsatisfactory or inadequate. Should this action be taken, the contract will become a non-exclusive use contract for these areas.

## **6. PROCUREMENT CARD**

The State of Montana has implemented a Procurement Card (GE MasterCard) Program to give agencies the ability to charge purchases made from these contracts. The State of Montana prefers this method of payment. **Express Personnel Services will not accept the Procurement Card as a method of payment.**

**7. TERM CONTRACT REPORTING**

Term contract holder(s) shall furnish quarterly reports of term contract usage. Each report shall contain the name of each worker, position assigned, start and end dates for each assignment, total quantity of hours per assignment, total dollars expended, the State agency/department and the name of the agency contact person. These reports must be available upon request by any agency/department. The first report for this term contract will be due February 28, 2001.

Reported volumes and dollar totals may be checked by the State Procurement Bureau against State records for verification. Failure to provide timely or accurate reports is justification for cancellation of the contract and/or justification for debarment from conducting any business with the State of Montana.

**8. ACCESS AND RETENTION OF RECORDS**

(a) The contractor agrees to provide the State, Legislative Auditor or their authorized agents access to any records necessary to determine contract compliance.

(b) The contractor agrees to create and retain records supporting the services rendered (or supplies delivered) for a period of three years after either the completion date of this contract or the conclusion of any claim, litigation or exception relating to this contract taken by the State of Montana or a third party.

**9. ASSIGNMENT, TRANSFER AND SUBCONTRACTING**

The contractor shall not assign, transfer or subcontract any portion of this contract without the express written consent of the State Procurement Bureau. (See 18-4-141, MCA).

**10. HOLD HARMLESS/INDEMNIFICATION**

The contractor agrees to indemnify the state, its officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, and causes of action of any kind or character, including the cost of defense, arising in favor of the contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed, goods or rights to intellectual property provided or omissions of services or in any way resulting from the acts or omission of the contractor and/or its agents, employees, subcontractors or its representatives under this or a subsequent contract, all to the extent of the contractors negligence.

**11. INSURANCE**

(a) **General Requirements:** The contractor shall maintain for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability which may arise from or in connection with the negligent performance of the work by the contractor, agents, employees, assigns, or subcontractors. The insurance shall cover such claims as may be caused by any negligent act or omission of the contractor or its officers, agents, representatives, assigns or subcontractors.

(b) **Specific Requirements for Commercial General Liability:** The contractor shall purchase and maintain Occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any negligent act, omission, or negligence of the contractor or its officers, agents, representatives, assigns or subcontractors.

(c) **Additional Insured Status:** The State, its officers, officials, employees, and volunteers are to be covered as additional insureds except for the negligence or willful misconduct of the State; for liability arising out of activities performed negligently by or on behalf of the contractor.

(d) **Specific Requirements for Automobile Liability:** The contractor shall purchase and maintain Occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the contractor or its officers, agents, representatives, assigns or subcontractors.

(e) **Additional Insured Status:** The State, its officers, officials, employees, and volunteers are to be covered as additional insureds for automobiles leased, hired, or borrowed by the contractor.

(f) **Deductibles and Self-Insured Retentions:** Any deductible or self-insured retention must be declared to and approved by the state agency. At the request of the agency either: 1) The insured shall reduce or eliminate such deductibles or self-insured retentions as respect to the State, its officers, officials, employees, and volunteers, or; 2) The contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

(g) **Certificate of Insurance/Endorsements:** A certificate of insurance, indicating compliance with the required coverages, has been received by the State Procurement Bureau. The Contractor must notify the State immediately, of any material change in insurance coverage, such as changes in limits, coverage, change in status of policy, etc.

(h) **Primary Insurance:** The contractor's insurance coverage shall be primary insurance as respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be in excess of the contractor's insurance and shall not contribute with it.

**12. WORKERS COMPENSATION/INDEPENDENT CONTRACTOR'S EXEMPTION**

Contractors are required to maintain Workers' Compensation or an Independent Contractor's Exemption covering the contractor and/or employees while performing work for the State of Montana in accordance with 39-71-120/401/405, Montana Code Annotated. Neither the contractor nor its employees are employees of the State. This insurance/exemption must be valid for the entire contract period.

**13. INTELLECTUAL PROPERTY**

(a) All patents and other legal rights in or to inventions arising out of activities funded in whole or in part by this contract must be available to the State for royalty-free and nonexclusive licensing. The contractor shall notify the State in writing of any invention conceived or reduced to practice in the course of performance of this contract.

(b) The State shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use and authorize others to use, copyrightable property created under this contract.

**14. COMPLIANCE WITH LAWS**

The contractor must, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the contractor subjects subcontractors to the same provision. In accordance with Section 49-3-207, MCA, the contractor agrees that the hiring of persons to perform this contract will be made on the basis of merit and qualifications and there will be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing this contract.

**15. CONTRACT TERMINATION**

(a) The State may, by written notice to the contractor, terminate this contract in whole or in part at any time the contractor fails to:

- perform the services within the time limits specified in this contract;
- perform any requirement of this contract;
- perform its contractual duties or responsibilities specified in the standards of contractor performance defined in the contract; or
- comply with any law, regulation or licensure and certification requirement.

(b) The State, at its sole discretion, may terminate or reduce the scope of this contract if available funding is reduced for any reason. (See 18-4-313(3), MCA).

**16. LIAISON AND SERVICE OF NOTICES**

Written notices or complaints will first be directed to the liaison.

**Contractor Liaison:**

Lynne Johnson  
Express Personnel Services  
921 Euclid  
Helena MT 59601  
Phone No.: (406) 442-7501  
Fax No.: (406) 442-2707  
LMJohnson@helenamt.expresspersonnel.com

**State Procurement Bureau Liaison:**

Penny Moon, Contracts Officer  
State Procurement Bureau  
Room 165, Mitchell Building  
125 North Roberts Street  
PO Box 200135  
Helena MT 59620-0135  
Phone No.: (406) 444-3313  
Fax No.: (406) 444-2529  
pmoon@state.mt.us

**17. CHOICE OF LAW AND VENUE**

This contract is governed by the laws of Montana. The parties agree that any litigation concerning this bid, proposal or subsequent contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana and each party shall pay its own costs and attorney fees. (See 18-1-401, MCA).

**18. SCOPE, AMENDMENT AND INTERPRETATION**

(a) This contract consists of seven numbered pages, any Attachments as required, RFP # SPB-01-15P as amended and the contractor's response as amended. In the case of dispute or ambiguity about the minimum levels of performance by the Contractor the order of precedence of document interpretation is in the same order.

(b) These documents contain the entire agreement of the parties. Any enlargement, alteration or modification requires a written amendment signed by both parties.